

# PUBLIC BUILDINGS SAVINGS AND REFORM ACT OF 2013

DECEMBER 11, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

## R E P O R T

[To accompany H.R. 2612]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2612) to amend title 40, United States Code, to improve the functioning and management of the Public Buildings Service, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE OF LEGISLATION

H.R. 2612 would amend title 40, United States Code, to improve the functioning and management of the Public Buildings Service of the General Services Administration.

## BACKGROUND AND NEED FOR LEGISLATION

H.R. 2612 would amend title 40, United States Code, to improve the functioning and management of the Public Buildings Service of the General Services Administration (GSA).

The Public Buildings Savings and Reform Act of 2013 provides important bipartisan reforms of the agency responsible for managing much of the Federal Government's real property and office space. The legislation increases transparency and oversight of federal public buildings programs and helps ensure that agencies reduce their real estate footprint, better utilize office space, and save taxpayers' money.

The Public Buildings Savings and Reform Act addresses key issues identified through Committee investigations, Government Accountability Office (GAO) studies, and Inspector General reports, and sets statutory frameworks and reforms to help eliminate this waste. Specifically, H.R. 2612 improves the management of Federal real property, strengthens transparency and oversight, and saves taxpayers' money.

### *Need for legislation*

The management of Federal real property has been on the GAO's High Risk list since 2003.<sup>1</sup> The GAO noted that while steps have been taken to address problems in managing Federal real estate, significant waste persists. In addition, through Committee hearings and investigations and Inspector General investigations, waste has been identified not only in how properties are managed but in how space is procured and in the administration of public buildings.

### *Vacant and underutilized buildings*

Thousands of federal properties sit vacant and thousands more are underutilized. According to the GAO, there are more than 45,000 underutilized federal properties, costing the taxpayer more than \$1.7 billion annually to operate.<sup>2</sup> Unfortunately, instead of better using what they already have in the space inventory, federal agencies lease more and more space.

While the scope of leased and owned property is generally known, the estimates on how much space is actually underutilized are less certain. In 2004, Executive Order 13327 directed the development of a Federal Real Property Profile (FRPP). According to the GSA, the FRPP is described as "the single comprehensive inventory system that contains data on all federal real property assets within and outside the United States, including improvements on federal land." Yet, the database is not readily accessible to Congress or for other oversight purposes. In addition, the GAO has questioned the

<sup>1</sup>See *High Risk Series*, GAO-13-283, U.S. Government Accountability Office, February 2013.

<sup>2</sup>*Federal Real Property: Progress Made on Planning and Data, but Unneeded Owned and Leased Facilities Remain*, GAO-11-520T, Apr 6, 2011.

reliability of the data contained in the FRPP.<sup>3</sup> Further, the GSA has reported to the Committee that utilization rates in the GSA's owned and operated properties is based on whether a tenant agency is paying rent to the GSA for the space, not based on how the space is actually being used.

The Committee, pursuant to section 3307 of title 40, United States Code, receives "prospectuses" for the GSA to lease, construct or renovate space over a certain cost threshold.<sup>4</sup> The Committee has consistently worked to reduce agency space requirements—project by project. As a result, during the 113th Congress, the Committee approved prospectuses with reductions that will potentially save the taxpayer up to \$2.2 billion in lease costs and avoided construction. This demonstrates the opportunities across agencies to better utilize space and minimize costs.<sup>5</sup>

#### *Administrative costs and management issues*

In addition to the mismanagement of real property, waste in the administrative costs and management of the GSA's Public Buildings Service also surfaced. Specifically, in 2012 the GSA's Inspector General (GSA IG) revealed significant waste in the GSA's administrative spending related to conferences, bonuses, and internship programs. The Committee held hearings that examined how money was wasted on conferences like the Public Buildings Service's 2010 Western Regions Conference held near Las Vegas. The GSA IG found that the total cost of the conference was \$822,751 including \$136,504 spent on 8 pre-conference scouting trips alone.<sup>6</sup> During the Committee investigation, other waste was identified, including an internship conference at the Palm Springs Riviera resort that included 120 interns and 20 senior staff and the GSA "Hats Off Program," as well as the fact that bonuses were provided even to GSA employees involved in the waste, raising serious questions about the bonus program.

During this time, the Committee investigated the budget and spending by the Public Buildings Services (PBS) on its administrative costs. Such costs are covered out of the Federal Buildings Fund (FBF). Within the FBF, the PBS's administrative costs are paid out of the "building operations" line item and totaled approximately \$2.4 billion each year. While the GSA's budget documents provide some high-level information on PBS's administrative costs, the method and way in which the GSA's submits its budget makes it extremely difficult for congressional committees to evaluate. For example, the way the GSA reports its budget information did not reveal that between fiscal years 2007 and 2011, the PBS administrative costs for personnel and related costs had increased by \$260 million nor was there any transparency on how much was being spent on conferences and bonuses.

<sup>3</sup>*Federal Real Property: National Strategy and Better Data Needed to Improve Management of Excess and Underutilized Property*, GAO-12-645, U.S. Government Accountability Office, June 2012.

<sup>4</sup>For FY 2013, a prospectus is required for any project in excess of \$2.79 million.

<sup>5</sup>On March 14, 2013, the Office of Management and Budget (OMB) issued a directive to federal agencies to freeze their space footprint and submit Real Property Cost Savings and Innovation Plans, see Management Procedures Memorandum No. 2013-02.

<sup>6</sup>*2010 Western Regions Conference, Management Deficiency Report*, Public Buildings Service, General Services Administration, Office of the Inspector General, April 2, 2012.

### *Courthouses*

Additional waste has been unearthed in the Federal courthouse construction program. As with many Executive Branch agencies, the Judiciary is a tenant of the GSA. In addition to the costs authorized for constructing a new courthouse, there are costs associated with rental payments to the GSA. In Fiscal Year 2012, the Judiciary's rental payments to the GSA totaled over \$1 billion for approximately 42.4 million square feet of space in 779 buildings, including 446 Federal courthouses. The Committee has conducted ongoing oversight over the years on the Federal courthouse construction program. In 2005, Chairman Shuster and Del. Norton as the then-Chairman and Ranking Member of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, requested that the Judicial Conference of the United States study the Judiciary's courtroom usage and report back to the Committee.

In 2008, the Judiciary submitted to the Committee a final report on courtroom usage completed by the Federal Judicial Center (FJC), the education and research agency for the U.S. Courts. The FJC study showed that, on average, a courtroom is *scheduled* to be used 4.1 hours a day for active district judge courtrooms, two hours a day for senior judge courtrooms, and 2.6 hours a day for magistrate judge courtrooms.<sup>7</sup> In addition, only half of the scheduled courtroom time is actually spent on case-related proceedings. For example, the 4.1 hours scheduled for the use of courtrooms assigned to district judges includes about one hour for scheduled events that were subsequently canceled or postponed and one hour for events that are not related to case proceedings.<sup>8</sup> In light of this study, the Committee requested the GAO review Federal courthouse planning and construction.

In 2010, the GAO completed a study entitled, "*Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs.*"<sup>9</sup> Specifically, the GAO examined 33 courthouses that were constructed during the ten-year period from 2000 to 2010. The GAO found that 3.56 million square feet of *extra* space was built because of the following reasons: the Judiciary grossly overestimated its 10-year projection of future judges assigned to courthouses; new courthouses did not incorporate courtroom sharing; and the GSA constructed courthouses above the congressionally-approved size.

In April 2013, the GAO released another study on the current process by which new courthouses are selected for the Judiciary's five-year Courthouse Project Plan.<sup>10</sup> The most recent plan was submitted to the Committee on March 11, 2013 for fiscal years 2014–2018. The plan lists 12 projects with \$1 billion in proposed costs. After reviewing the Judiciary's new evaluation process, the GAO found that the actual costs of the projects would cost closer to \$3 billion, only two of the projects on the current list were evaluated through the Judiciary's new evaluation process, and a majority of

<sup>7</sup> *Report on the Usage of Federal District Court Courtrooms, Judicial Conference of the United States, September 16, 2003. See also, Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs*, GAO–10–417, June 2010.

<sup>8</sup> Such as set-up and take-down time for courtroom uses, public tours and other events.

<sup>9</sup> GAO–10–417.

<sup>10</sup> *Federal Courthouses: Recommended Construction Projects Should Be Evaluated under New Capital-Planning Process*, U.S. General Accountability Office, GAO–13–263, April 11, 2013.

those projects did not appear to meet the Judiciary's threshold for consideration on the list, raising questions about the reliability of the current plan. In response to the GAO findings, the Committee held a hearing on April 17, 2013 entitled, "*GAO Review: Are Additional Federal Courthouses Justified?*" During the hearing the Judiciary committed to applying the new evaluation process to all the projects on its five-year plan and submitting an updated list to the Committee.

#### *Judiciary's Response*

Since the issuance of the GAO reports and the Committee's hearings and oversight, the Judiciary has taken steps to improve its space management and utilization. For example, the Judicial Conference has adopted courtroom sharing policies for senior district, magistrate and bankruptcy judges. It has developed and is using a new Asset Management Planning (AMP) evaluation process for better identifying new space and renovation needs. In addition, the Judiciary has instituted three national space reduction policies, including:

- *No Net New*—This policy requires that any increase in square footage within one of the 12 geographical circuits be offset by the equivalent reduction of square footage during the same fiscal year, unless otherwise authorized by Congress;
- *Three Percent Space Reduction Target*—This policy establishes a target of a 3% space reduction by the end of fiscal year 2018, unless otherwise authorized by Congress; and
- *Circuit Judicial Council Plans*—This policy requires each circuit judicial council to formulate a space and rent management plan to identify how any space reduction policies will be implemented.

On October 1, 2014, the Judiciary submitted a Five Year Courthouse Project Plan for Fiscal Years 2016–2020 with revisions in accordance with the application of the new evaluation process as requested by the Committee at the April 17, 2013 hearing.

#### *Waste in agency office space acquisition programs*

Finally, the Committee identified specific and costly examples of waste in agency office space acquisitions that indicated more oversight is needed. For example, in 2010, the Securities and Exchange Commission (SEC) entered into a sole source lease for 900,000 square feet of office space with an option to lease 500,000 additional square feet at Constitution Center located at 7th and D Streets, SW, in Washington, D.C. The \$556 million lease was "negotiated" in three business days and not long after it was signed questions were raised regarding whether the SEC needed the space. Following reports of the lease agreement, the SEC IG initiated an investigation. On May 16, 2011, the SEC IG concluded its investigation and released the report to the Subcommittee on Economic Development, Public Buildings and Emergency Management.<sup>11</sup> It was determined that none of the office space was needed by the SEC even though the taxpayer remained on the hook for \$556 million. Since that time, the GSA and SEC had to work to

<sup>11</sup>*Improper Actions Relating to the Leasing of Office Space, Report of Investigation*, Office of the Inspector General, U.S. Securities and Exchange Commission, May 16, 2011 (OIG-553).

backfill the space with other agencies to mitigate SEC's costly mistake.

The Nuclear Regulatory Commission (NRC) is another example of wasteful office acquisition practices. Since 2007, the NRC has expanded its office space holdings significantly beyond the cost and square footage limitations authorized by the Committee. Specifically, in 2007 the Committee authorized a 10-year lease of 120,000 rentable square feet for a total cost of \$38 million in order to house the NRC's projected increase in staff. Instead the NRC circumvented the Committee's normal authorization process and obtained an authorization in the fiscal years 2008 and 2009 appropriations bills that contained no limitation on cost or size. As a result, the GSA, on behalf of the NRC, acquired a new, built to suit 358,000 rentable square foot building costing over \$350 million dollars over 15 years, including tenant improvements and parking. The new building was the third building near its main headquarters in Maryland, in addition to satellite offices.

Despite the new \$350 million building and no increase in staffing, the GSA submitted a request for the Committee to approve renewal of the lease for one of the other buildings at NRC's headquarters. If the Committee had authorized the lease renewal as requested, the NRC's space utilization rate would have worsened, contrary to the direction of other agencies. Had the NRC followed the limitations established by the Committee in 2007, today, it would have the amount of space it actually needs. As a result, the Committee required the NRC to relinquish space in its existing portfolio in order to renew its expiring lease. The Food and Drug Administration (FDA), which had expiring leases in the area, will backfill the vacated NRC facility and significantly improve the overall utilization rate of the NRC headquarters facilities.

#### HEARINGS

The Committee, including the Subcommittee on Economic Development, Public Buildings, and Emergency Management, held 10 hearings on subjects related to matters contained in H.R. 2612 during the 111th, 112th and 113th congresses. In particular, the Committee held the following hearings:

On May 25, 2010 the Subcommittee held a hearing on a GAO report on the construction of Federal Courthouses. This hearing focused on the findings of the GAO on its review of the 33 federal courthouses built between 2000 and 2010.

On June 16, 2011 the Subcommittee held a hearing focused on the SEC's management of its independent authority to lease space and, in particular, the Subcommittee examined issues detailed in a May 16, 2011, SEC Inspector General's report related to SEC's lease procurement of 900,000 square feet of space in the District of Columbia under a 10-year lease worth over \$500 million.

On July 6, 2011, the Subcommittee held a hearing on the SEC's management of its independent authority to lease space and, in particular, the Subcommittee examined issues detailed in a May 16, 2011, SEC Inspector General's report related to SEC's lease procurement of 900,000 square feet of space in the District of Columbia under a 10-year lease worth over \$500 million.

On November 4, 2011, the Subcommittee held a hearing on the justification of a third courthouse in Los Angeles, California includ-

ing the size, scope, compliance with courtroom sharing guidelines, and cost implications of the entire courthouse complex in Los Angeles.

On April 17, 2012, the Subcommittee held a hearing on the GSA's waste of taxpayer dollars on a lavish Western Regional Conference (WRC), its "Hats Off" employee rewards program, and other waste and abuse of taxpayer dollars.

On August 1, 2012, the Subcommittee held a hearing on the mismanagement and wasteful spending of the GSA. Specifically, the hearing examined additional information received on the GSA conferences, travel and bonuses as well as the GSA's decision to enter into a \$350 million lease without Committee authorization.

On August 6, 2012, the Subcommittee held a hearing on the costs to the taxpayer of underperforming or vacant assets and the overbuilding of federal courthouses.

On August 17, 2012, the Subcommittee held a hearing on the justification of a third courthouse in Los Angeles, California, the cost implications of the entire courthouse complex in Los Angeles, and review of the viability of the GSA's proposal to exchange the Spring Street Courthouse for construction of a new federal office building.

On April 17, 2013, the Full Committee held a hearing on the results of the GAO's review of the Judiciary's 5-year courthouse construction plan and whether additional federal courthouses are justified.

On May 22, 2013, the Subcommittee held a hearing on efforts by federal agencies to freeze and reduce their real estate footprint.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On July 8, 2013, Representative Lou Barletta introduced H.R. 2612, a bill to amend title 40, United States Code, to improve the functioning and management of the Public Buildings Service of the General Services Administration.

On July 10, 2013, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 2612 or ordering the measure reported. A motion to order H.R. 2612 reported favorably to the House was agreed to by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 2612 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 25, 2013.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2612, the Public Buildings Savings and Reform Act of 2013.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 2612—Public Buildings Savings and Reform Act of 2013*

H.R. 2612 would amend federal law regarding the management of the General Services Administration (GSA). The bill would set maximum rental rates that the government could pay for leases of buildings, limit the acquisition of new federal property, set specific requirements for the construction of federal courthouses, set restrictions on bonuses for GSA employees, limit the authority of other agencies to lease real property, and require GSA to set utilization rates for federal buildings. Finally, H.R. 2612 would require GSA to prepare a number of reports for the Congress.

Based on information from GSA, CBO estimates that implementing H.R. 2612 would cost \$17 million over the 2014–2018 period, assuming appropriation of the necessary amounts. Those costs would result primarily from the requirement that GSA expand its current analysis of maximum rental rates, which currently covers only the Washington, D.C., Metropolitan area, to include approximately 1,400 real estate markets around the country. Other provisions of the bill would codify a number of practices currently being undertaken by the federal government, including freezing the size of existing real estate assets pursuant to guidance from the Office of Management and Budget (OMB). Other current practices include having agencies annually submit their overall approach to real property usage and spending to OMB, and promoting co-location and consolidation among agencies. Enacting H.R. 2612 would not



affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Currently, GSA spends more than \$5 billion annually from the Federal Building Fund to lease almost 200 million square feet of space for federal agencies. In addition, the most recent Five-Year Courthouse Project Plan as approved by the U.S. Judicial Conference lists 12 courthouse projects currently underway that involve more than \$1 billion in total construction costs. By establishing maximum rental rates and imposing requirements for judges to share courtroom facilities, implementing H.R. 2612 could lead to significant savings for construction, leasing, and operations and maintenance in the future. However, because of the length of most leases (five to 20 years) and the time required to complete courthouse construction (seven years or more), we expect that any cost savings over the next five years from implementing this legislation would be small.

H.R. 2612 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Maggie Morrissey and Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to amend title 40, United States Code, to improve the functioning and management of the Public Buildings Service of the General Services Administration.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2612 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 2612 does not specifically direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

## FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 2612 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1. Short title*

This section establishes the short title as the “Public Buildings Savings and Reform Act of 2013”.

*Section 2. Freeze the footprint*

For the next four years, this section requires any prospectus for new space to show a corresponding offset and freezes the current General Services Administration (GSA) real estate footprint to FY2012 baseline levels. The Committee intends that the baseline be calculated based on the GSA’s FY 2012 baseline in addition to the baselines of agencies included from section 11.

*Section 3. Minimizing costs of leased space*

This section requires the GSA to notify the Committee when the GSA enters into below-prospectus leases with rental rates higher than the standard rental rate cap and requires the GSA to notify the Committee before entering into any lease-construction agreements. This section is not to be construed as requiring the GSA to develop and establish standard rental rate caps in geographical areas in which it has not already done so.

*Section 4. Reports on leases*

This section requires the GSA to provide a list each year to the Committee detailing all the leases signed by the GSA for the previous fiscal year.

*Section 5. Zero-based space justification*

This section requires the GSA to justify in project prospectuses submitted to the Committee the need for the total space requested.

*Section 6. Reducing costs related to courthouses*

This section restricts the GSA's authority to construct courthouses unless a minimum amount of courtroom sharing is incorporated in the design. This section also establishes the minimum amount of courtroom sharing among judges. This section limits how future new courthouses are constructed by the GSA. It is not intended as a mandate on Federal judges. In addition, this section only applies to future construction of new courthouses.

*Section 7. Internship program review*

This section directs the Inspector General of the GSA to review the Public Buildings Service's (PBS) internship programs including costs, value added to the Public Buildings Service, recommendations on improvements, and compliance with Federal hiring laws and practices. While the Committee understands the GSA has made changes to its internship programs, the intent of this section is to have an independent review of those programs, particularly as used by the PBS.

*Section 8. Bonuses and conferences*

This section establishes a moratorium on Senior Executive Service bonuses until the GSA reports to the Committee the results of its review of the bonus programs and its plans to address identified problems. This section requires the Public Buildings Service to report to the Committee on conferences hosted by the PBS.

*Section 9. Administrative cost budgeting*

This section requires the GSA to submit a detailed budget for the Public Building Service's administrative costs for each fiscal year and restricts the Public Building Service from using Federal Buildings Fund monies for such purposes unless specifically authorized.

*Section 10. Limitation on authorizations*

This section would sunset Committee authorizations of prospectus projects if the GSA fails to initiate a project within 5 years of such authorizations.

*Section 11. Limitation on leasing authorities*

This section rescinds the independent leasing authority of other agencies, except for national security reasons or properties of the VA, creates a 5 year pilot program to allow the GSA to delegate the procurement of leases to other agencies so long as all other requirements are met, such as the prospectus process, and requires the GSA to report to the Committee on the pilot program.

*Section 12. Utilization rates and housing plans*

This section requires the GSA to develop and implement a method of tracking actual utilization of space and requires the GSA and tenant agencies to certify the actual number of personnel housed in each building. This section also requires the GSA to submit to the Committee the Real Property and Cost Savings and Innovation

Plans the OMB required all agencies to complete on their space strategy.

*Section 13. Elimination of project escalations*

This section requires the GSA to notify the Committee if a project cost exceeds 5 percent of what was authorized or varies in scope and size of more than 5 percent. This section also limits any variation in scope or size to 10 percent.

*Section 14. Report of public buildings service activities*

This section requires the GSA to report to the Committee in one year on the impact of its activities in various areas and in reducing costs.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 40, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE I—FEDERAL PROPERTY AND  
ADMINISTRATIVE SERVICES**

\* \* \* \* \*

**CHAPTER 5—PROPERTY MANAGEMENT**

\* \* \* \* \*

**SUBCHAPTER V—OPERATION OF BUILDINGS AND RELATED  
ACTIVITIES**

\* \* \* \* \*

**§ 592. Federal Buildings Fund**

(a) \* \* \*

\* \* \* \* \*

(c) USES.—

(1) \* \* \*

\* \* \* \* \*

(5) *EXCEPTION FOR ADMINISTRATIVE EXPENSES.*—*Notwithstanding paragraph (1), deposits in the Fund may not be used for administrative expenses of the Public Buildings Service unless an amount specified for such expenses is specifically authorized for a given fiscal year.*

\* \* \* \* \*

(g) *MORATORIUM ON BONUSES.*—*No funds in the Federal Buildings Fund may be available for bonuses, performance awards, or similar expenditures for a member of the Senior Executive Service, until the Administrator of General Services submits a report to the*

*Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate detailing—*

*(1) the findings and conclusions of a review of the Public Building Service’s system of awarding bonuses and performance awards;*

*(2) actions to be taken by the Administrator to improve the system and ensure efficiency and effectiveness; and*

*(3) a description of how the actions identified will resolve any inefficiencies identified.*

\* \* \* \* \*

## SUBTITLE II—PUBLIC BUILDINGS AND WORKS

\* \* \* \* \*

### PART A—GENERAL

#### CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

Sec.

3301. Definitions and nonapplication.

\* \* \* \* \*

3317. *Offsets and freeze of space inventory.*

3318. *Reports on leases.*

3319. *Reducing costs related to courthouses.*

3320. *Restrictions on conferences and travel.*

3321. *Limitation on leasing authority of other agencies.*

3322. *Utilization rates.*

#### § 3301. Definitions and nonapplication

(a) DEFINITIONS.—In this chapter—

(1) \* \* \*

\* \* \* \* \*

(5) *MAXIMUM RENTAL RATE.*—The term “maximum rental rate” means the maximum rate, by rentable square feet estimated by the Administrator of General Services for the leasing of commercial space for purposes of a public building in a given geographical location.

[(5)] (6) *PUBLIC BUILDING.*—The term “public building”—

(A) \* \* \*

\* \* \* \* \*

[(6)] (7) *UNITED STATES.*—The term “United States” includes the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

\* \* \* \* \*

#### § 3307. Congressional approval of proposed projects

(a) \* \* \*

(b) *TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.*—To secure consideration for the approval referred to in

subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) \* \* \*

\* \* \* \* \*

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased; **[and]**

(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project~~...~~; *and*

(8) *with respect to any prospectus, including for replacement space, lease renewal, or lease extension, the Administrator shall include a justification for such space, including an explanation of why such space could not be consolidated or co-located into other owned or leased space.*

(c) INCREASE OF ESTIMATED MAXIMUM COST.—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost. *The Administrator shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of any increase of more than 5 percent of an estimated maximum cost or of any increase or decrease in the scope or size of a project of 5 or more percent. Such notification shall include an explanation regarding any such increase or decrease. The scope or size of a project shall not increase or decrease by more than 10 percent unless an amended prospectus is submitted and approved pursuant to this section.*

\* \* \* \* \*

(g) LIMITATION ON LEASING CERTAIN SPACE.—

(1) \* \* \*

\* \* \* \* \*

(3) RESTRICTION ON BELOW-PROSPECTUS LEVEL.—

(A) RESTRICTION ON RENTAL RATE.—*The Administrator may not lease space at an amount below the average annual rental rate thresholds established pursuant to subsections (a) and (h) and that exceeds the maximum rental rate established by the Administrator for the respective geographical location, unless the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate are notified by the Administrator in writing at least 10 days before the execution of such lease.*

(B) ANNUAL REPORTS.—*The Administrator shall submit, on an annual basis, to the Committee on Transportation*

*and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report detailing the maximum rental rates established by the Administrator by geographical location.*

(4) *RESTRICTION ON OTHER BELOW-PROSPECTUS LEVEL PROJECTS.*—Not less than 30 days before entering into any lease-construction agreement, regardless of the threshold amounts established pursuant to subsections (a) and (h), the Administrator shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, in writing, of the intention to enter into such agreement and include in the notification details of the project and any associated information.

\* \* \* \* \*

(i) *BUDGET PROPOSAL OF ADMINISTRATIVE EXPENSES.*—

(1) *PROPOSED BUDGET.*—Not later than the date that the President submits the budget request to Congress pursuant to section 1105 of title 31, United States Code, the Administrator of General Services shall submit a proposed budget for the Public Buildings Service to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate detailing all proposed administrative expenses for such Service for the following fiscal year.

(2) *SPECIFICS OF BUDGET PROPOSAL.*—Such proposed budget shall include the following:

(A) A breakdown of proposed administrative expenses of the Public Buildings Service and the expenses of the previous fiscal year, including a breakdown of object classification and subclassification to include salaries, bonuses, travel and transportation, training, and conferences.

(B) A breakdown as described in subparagraph (A) for the Public Buildings Service headquarters, Commissioner's office, and each of the regional offices.

(C) A breakdown of proposed staffing levels, including the number of full-time equivalent positions and the number of Federal employees by job classification and title of the Public Buildings Service, the Service headquarters, Commissioner's office, and the regional offices, and the numbers for the same for the previous fiscal year.

(D) A detailed justification for any proposed increase in administrative expenses or staffing.

(E) A justification for the total amount of administrative expenses.

(3) *ADMINISTRATIVE COST CATEGORIES.*—The budget proposal information described in paragraph (2) shall provide the required information within the following administrative cost categories:

(A) *Building Operations and Maintenance*, including cleaning, utilities and fuels, and maintenance.

(B) *Salaries and Expenses*, including other building services, space acquisition, staff support, and information technology services.

(j) *EXPIRATION OF COMMITTEE RESOLUTIONS.*—Unless a lease is executed or a construction, alteration, repair, design, or acquisition project is initiated within 5 years of the resolution approvals adopted by the Committee on Transportation and Infrastructure of the House of Representatives or the Committee on Environment and Public Works of the Senate pursuant to subsection (a), such resolutions shall be deemed expired. This subsection shall only apply to resolutions approved after the date of enactment of this subsection.

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### **§ 3317. Offsets and freeze of space inventory**

(a) *INFORMATION IN PROSPECTUS.*—Any prospectus that proposes new space, whether leased or owned, transmitted pursuant to section 3307(b) for each of fiscal years 2014, 2015, 2016, and 2017 shall contain information outlining the details of the elimination of at least a corresponding amount of space.

(b) *FREEZING THE REAL ESTATE FOOTPRINT.*—On an annual basis, the Administrator shall not increase the size or amount of its real property inventory, leased or owned, as compared to its fiscal year 2012 real property baseline, except in those years in which space offsets have been specifically identified or for emergency or national security purposes as determined by the President.

### **§ 3318. Reports on leases**

Not later than December 31 of each year, the Administrator of General Services shall submit a list to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of all leases, including lease-construction agreements, entered into by the General Services Administration for the previous fiscal year. For each lease, the list shall detail the size of the space, location, tenant agency or agencies, total annual rental rate, and the authorized annual rental if such rental rate exceeds the annual threshold amounts set forth in section 3307.

### **§ 3319. Reducing costs related to courthouses**

(a) *LIMITATION ON NEW COURTHOUSES.*—The Administrator of General Services may not commence construction of any new courthouse if—

- (1) construction has not begun on or before the date of enactment of this section; and
- (2) the design and construction of the new courthouse fails to comply, at a minimum, with the courtroom sharing requirements described in subsection (b).

(b) *COURTROOM SHARING REQUIREMENTS DEFINED.*—The term “courtroom sharing requirements” means—

- (1) in courthouses with 10 or more active district judges, 2 courtrooms per 3 active district judges, except such courthouses may contain not less than 9 courtrooms for active district judges;
- (2) in courthouses with 3 or more bankruptcy judges, 1 courtroom per 2 bankruptcy judges;
- (3) in courthouses with 3 or more senior district judges, 1 courtroom per 2 senior district judges; and



(4) in courthouses with 3 or more magistrate judges, 1 courtroom per 2 magistrate judges.

(c) *UNITED STATES COURTS DESIGN GUIDE*.—Not later than 180 days after the date of enactment of this section, the Design Guide for courthouses shall be updated to incorporate courtroom sharing requirements to the maximum extent practicable.

(d) *UTILIZATION*.—If a new courthouse will add capacity in the inventory of the General Services Administration, existing space in the same courthouse complex must be fully utilized or relinquished from the inventory of the General Services Administration.

### **§ 3320. Restrictions on conferences and travel**

(a) *REPORTS REGARDING CONFERENCES*.—Not later than the end of each fiscal year, the Administrator of General Services shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on conferences proposed to be hosted by the Public Buildings Service for the subsequent fiscal year. The report shall include the following for each proposed conference:

- (1) The purpose of the conference.
- (2) A detailed budget for the conference, including related travel, lodging, and per diem costs.
- (3) The expected number of participants, including from the Public Buildings Service.
- (4) The location and length of the conference.
- (5) Any expected non-Federal funding or sponsorships.

(b) *CONFERENCE REVIEW*.—Not later than 60 days after each fiscal year, the Administrator shall submit a report to the congressional committees identified in subsection (a) including the following:

- (1) The actual expenditures and costs of each conference and a comparison to the budget submitted pursuant to subsection (a).
- (2) The actual number of participants of the Public Buildings Service in each conference and associated travel, lodging, and per diem costs.
- (3) An agenda of each conference programming and events.

### **§ 3321. Limitation on leasing authority of other agencies**

(a) *IN GENERAL*.—Notwithstanding any other provision of law, an executive agency may not lease space for the purposes of a public building as defined under section 3301, except as provided under section 585 and the provisions of this chapter.

(b) *PUBLIC BUILDING*.—For the purposes of this section, the term “public building” includes leased space.

(c) *EXCLUSIONS*.—This section shall not apply to—

- (1) properties that are excluded for reasons of national security by the President; and
- (2) properties of the Department of Veterans Affairs.

(d) *CONSTRUCTION*.—Nothing in this section shall be construed as creating new authority for executive agencies to enter into leases.

(e) *DELEGATION PILOT*.—With respect to executive agencies covered by subsection (a)—

(1) the Administrator of General Services may delegate authority to manage the procurement of leases to an appropriate executive agency if the Administrator determines that such agency has the appropriate expertise and ability to do so and such delegation promotes efficiency and economy;

(2) the delegation under this subsection does not exempt the Administrator or the agency to which the delegation is made from any other provision of this chapter, including sections 592 and 3307; and

(3) the delegation authority under this subsection shall terminate on December 31, 2018.

(f) *REPORT.*—Not later than 6 months before the termination date set forth in subsection (e)(3), the Administrator shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate. The report shall include an analysis of the effectiveness of the delegation authority provided in this section, including—

(1) a comparison of the costs and terms associated with leases procured under the delegation authority to the leases procured by the Public Buildings Service;

(2) whether procurements delegated were consistent with authorization limitations and parameters; and

(3) recommendations on improvements to the delegation authority and whether such authority should be extended.

### **§ 3322. Utilization rates**

(a) *MEASUREMENT OF SPACE UTILIZATION.*—Not later than 6 months after the date of enactment of this section, the Administrator of General Services shall develop and implement a method of measuring actual utilization rates of its owned and leased inventory of public buildings space and a plan for incorporating such utilization rates into performance metrics for owned and leased buildings by region.

(b) *SPACE UTILIZATION.*—Any method developed and implemented pursuant to subsection (a) shall be based on actual utilization by rentable square feet per person.

(c) *REPORT.*—Not later than 1 year after the date of enactment of this section and annually thereafter, the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate utilization rates measured pursuant to subsection (a) and performance metrics for owned and leased buildings.

(d) *CERTIFICATION.*—Not later than one year after the date of enactment of this section and every year thereafter, the Administrator and tenant Federal agencies shall certify, in writing, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the actual number of personnel housed in each building, leased or owned, in the inventory of the General Services Administration. Such written certifications shall detail the number of Federal employees, temporary employees, contractors, and any other non-Federal employees.

(e) *DATABASE.*—

(1) *IN GENERAL.*—The Administrator shall maintain a database of utilization rates and metrics developed pursuant to this section.

(2) *ACCESSIBILITY.*—The database described in paragraph (1) shall be made available upon request by congressional committees.

(3) *EXCLUSIONS.*—For reasons of national security, the President may exclude any property from the requirements of this subsection.

(f) *AGENCY SPACE PLANS.*—Not later than 60 days after the date of enactment of this section, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate all agency Real Property Cost Savings and Innovation Plans submitted pursuant to the MANAGEMENT PROCEDURES MEMORANDUM NO. 2013–02 of the Office of Management and Budget. The Administrator shall submit subsequent updates of the Real Property Cost Savings and Innovation Plans or any successor plans to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than 60 days after their receipt by the Administrator.

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